IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Bail Appl..No. 6055 of 2007()

PETITIONER/ACCUSED

MUNEER,
S/O.MOHAMMED KOYA,
PALAKUTTI PARAMBA,OLIPRAM KADAVU,
TENHIPALAM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP. BY
PUBLIC PROSECUTOR HIGH COURT OF KERALA
REPRESENTING SUB INSPECTOR OF POLICE,
VADAKKEKKAD POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6055 OF 2007

Dated this the 1st day of November, 2007

ORDER

Application for anticipatory bail. The petitioner apprehends arrest in a crime registered for offences punishable under Secs.406 and 420 of the IPC. The crime has been registered on the basis of the a private complaint filed before the learned Magistrate and referred by the learned Magistrate to the police under Sec.156(3) of the Cr.P.C. In the complaint two persons are shown as accused. They are spouses. It is alleged that the 1st accused – wife, had purchased a vehicle from the de facto complainant. She has dealt with the same fraudulently and caused disappearance of the vehicle even before the liability in respect of that vehicle was discharged in full. Investigation revealed that the 1st accused had sold the vehicle to another person by name Jaleel.

Further investigation revealed that the said Jaleel is a non-existent person and the petitioner herein who is subsequently arrayed as 3rd accused, is the person who played fraud. He had purchased the vehicle in the name of Jaleel showing himself as one of the witnesses in the document. The vehicle was fraudulently taken away and kept beyond the reach of the de facto complainant and the other accused persons by the petitioner herein. As per the interim directions issued, the petitioner had appeared before the Investigating Officer. The Investigating Officer subsequently confirms that the petitioner has now been arrayed as 3rd accused. He has to be further interrogated. Attempt must be made to trace the vehicle and, in these circumstances, the learned Public Prosecutor opposes the application for anticipatory bail.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and that the petitioner was only a witness in the transaction between the 1st accused and one Jaleel and it is idle now to contend that the said Jaleel is a non-existent person.

3. I have considered all the relevant inputs. In the nature of the contentions raised, the Case Diary has been perused by me in detail. I shall not embark on a detailed discussion on the

acceptability of the allegations or the credibility of the data collected. Having considered all the relevant inputs, I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I agree with the learned Public Prosecutor, is an eminently fit case where the petitioner must be directed to appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. to Judge